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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,562	03/25/2004	Ken Ueno	05225.0261	4855
22852 7590 10/17/2007 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER NAQI, SHARICK	
			ART UNIT 3736	PAPER NUMBER
			MAIL DATE 10/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/808,562

Applicant(s)

UENO ET AL.

Examiner

Sharick Naqi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

The Examiner acknowledges the amendment filed on August 1, 2007

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abams et al. USPN 5,673,691 and in view of Root et al. USPN 6,013,007.**

Abrams discloses an apparatus for supporting a user's behavior, comprising:

a behavior schedule database configured to store a schedule for the user, the schedule including a date, a start time, an end time, a behavior label; (column 3, lines 42-67, column 11, lines 19-67, column 12, lines 1-15, column 15, lines 60-67, column 21, lines 65-67, column 22, lines 1-20)

an integrated behavior database generation unit configured to generate an integrated behavior database correspondingly storing a biomedical information and a behavior information of the user, the biomedical information being detected by a sensor associated with the user's body, the behavior information including the user's actual behavior in the past; (column 6, lines 1-56, column 11, lines 19-67)

a behavior rule generation unit configured to generate a behavior rule of the user by referring to the integrated behavior database, the behavior rule representing a tendency of the user's behavior in the past device software; (column 6, lines 1-56, column 11, lines 19-67)

a behavior schedule reorganization unit configured to reorganize the schedule by referring to the behavior rule; (column 21, lines 65-67, column 22, lines 1-20)

a message generation unit configured to generate a message to urge the user to walk by referring to the reorganized schedule; (column 12, lines 1-23) and

a message notice unit configured to notify the user of the message. (column 12, lines 1-33)

The apparatus disclosed by Abrams stores a user's baseline exercise level of exercises such as walking and adjusts exercise targets including duration of exercise based on the user's adherence to a program (column 6, lines 1-56). The device also provides feedback, helps the user schedule exercise sessions of various stored exercises and assists the user in selecting when and how much to exercise based on their history of behavior (column 5, lines 1-10, column 6, lines 1-56, column 21, lines 65-67 and column 22, lines 1-10). Therefore Abrams stores an exercise schedule and reorganizes the exercise schedule based on the user's past behavior.

Abrams discloses various exercise options, including walking, swimming, cycling, aerobics and tennis (column 6, lines 1-56) for various durations, which the user can schedule to meet prescribed exercise targets. Abrams does not specifically disclose that the exercise options include running or walking a route. However, Root et al., a

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reference in an analogous art, discloses a system where a user exercises by running a preset course (route) and feedback is provided to help the user meet preset exercise targets (column 7, lines 1-50, column 9, lines 58-67). Both references disclose ways of exercising to meet an exercise target. Therefore, it would have been obvious to one of ordinary skill in the art to substitute an exercise option in Abram's schedule with the known exercise of running a preset route as taught by Root et al. for the predictable result of allowing the user to exercise and meet a target.

2. (Currently Amended) The apparatus according to claim 1,

wherein the behavior information comprises a behavior database, and a feeling description database. (column 11, lines 19-67, column 19, lines 9-67)

3. (Original) The apparatus according to claim 2, wherein the behavior database correspondingly includes a date, a start time, an end time, a start point, an end point, a user name, a behavior label, and a route. (Abrams, column 11, lines 17-67, Root et al. Column 9, lines 58-67)

4. (Previously Presented) The apparatus according to claim 3,

wherein the feeling description database correspondingly includes a date, a start time, an end time, a user name, and a feeling description. (column 11, lines 17-67, column 19, lines 9-67)

5. (Currently Amended) The apparatus according to claim 4,

wherein the behavior schedule database correspondingly includes a number of steps estimated by said behavior schedule reorganization unit. (column 6, lines 1-56, column 11, lines 17-67, column 19, lines 9-67. Abrams uses a pedometer to monitor the user and tailors a program to the user's habits, including length of an exercise such as walking. Abrams also adjusts the exercise targets based on the user's prior behavior and tells the user how much to exercise. It would be obvious to one of ordinary skill in the art to have the adjusted exercise target for walking include an estimated number of steps because it can be easily and accurately tracked using the pedometer)

6. (Original) The apparatus according to claim 5,

wherein the biomedical information comprises a sensor database, (column 11, lines 19-67) and

wherein the sensor database correspondingly includes a date, a start time, an end time, a measurement value of the sensor at the start time, and a measurement value of the sensor at the end time. (column 11, lines 19-67)

7. (Previously Presented) The apparatus according to claim 6, wherein said integrated behavior data generation unit merges information of the behavior database, the feeling description database and the behavior schedule database for the same user, the same

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date, the same start time and the same end time, and generates the merged information as the integrated behavior database. (column 11, lines 19-67)

8. (Previously Presented) The apparatus according to claim 1, wherein said behavior rule generation unit extracts the tendency of the user's behavior from information of the integrated behavior database, modifies the extracted information as a rule having condition and result, and generates the rule as a behavior rule database. (column 11, lines 19-67)

9. (Previously Presented) The apparatus according to claim 1, further comprising a relational database configured to store a conception dictionary dataset, a behavior label set, a calendar weather data set, a route data set, a location data set, and a map dataset, (column 11, lines 19-67) and

wherein said integrated behavior data generation unit adds information to the integrated behavior database by referring to each set of the relational database. (column 11, lines 19-67)

10. (Currently Amended) The apparatus according to claim 8,

wherein said behavior schedule reorganization unit reorganizes the route schedule so that an estimated number of steps is constantly above a target value of a number of steps. (column 6, lines 1-56, column 11, lines 17-67, column 19, lines 9-67. Abrams uses a pedometer to monitor the user and tailors a program to the user's

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habits, including length of an exercise such as walking. Abrams also adjusts the exercise targets based on the user's prior behavior and tells the user how much to exercise, slowly increasing the exercise level over time.)

11. (Original) The apparatus according to claim 10, further comprising a behavior advice database configured to store the message in correspondence with the behavior rule.  
(column 19, lines 1-67)

12. (Original) The apparatus according to claim 1, further comprising,  
an advice evaluation input unit configured to input an evaluation for the message from the user, (column 19, lines 1-67) and  
an advice evaluation database configured to store the evaluation in correspondence with the message. (column 19, lines 1-67)

13. (Previously Presented) The apparatus according to claim 12,  
further comprising an exercise constraint condition rule database configured to correspondingly store the behavior rule and the evaluation, (column 11, lines 19-67) and  
wherein said message generation unit generates a message by referring to the exercise constraint condition rule database. (column 11, lines 19-67)

14. (Previously Presented) The apparatus according to claim 5,



further comprising a data interface unit configured to input the feeling description and the behavior schedule data from the user. (column 33, lines 37-67)

15. (Original) The apparatus according to claim 14,

wherein said data interface unit interactively inputs a status data of the user's moving by the user's indication, and records the status data as the user's behavior in time series. (column 11, lines 19-67, column 33, lines 37-67)

16. (Original) The apparatus according to claim 15,

wherein said data interface unit outputs a behavior graph of the user by using the recorded status data in time series. (Fig. 66, Column 33, lines 37-67)

17. (Previously Presented) The apparatus according to claim 13,

further comprising a database share unit configured to share information of the integrated behavior database and the exercise constraint condition rule database among a plurality of users (column 33, lines 37-67).

For claim 18, Abrams discloses the apparatus of claim 6 as shown above, wherein the integrated behavior database correspondingly stores the biomedical information, the behavior information (column 11, lines 19-67). Abrams does not disclose the apparatus further comprising a location detection unit configured to detect the user's location information. Root et al, a reference in an analogous art discloses a GPS based

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performance monitor and feedback device that provides a user with accurate real-time performance feedback information independent of the user's location (column 9, lines 57-67). Both Abrams and Root provide the user with feedback regarding their performance. It would have been obvious to one of ordinary skill in the art to improve the device of Abram's with Root et al.'s known technique of using a GPS based performance monitor and feedback device for the predictable result of providing a user with accurate real-time performance feedback information independent of the user's location (Root et al. column 9, lines 57-67)

Using the reasoning above it would be obvious that the integrated behavior database correspondingly stores the location information as it would be part of the overall feedback mechanism (Root et al. column 9, lines 57-67).

**Claim 19 is rejected on substantially the same basis as claim 1.**

**Claim 20 is rejected on substantially the same basis as claim 1.**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Applicant is advised that "configured to" is properly interpreted as "capable of" which is intended use/functional language. As such, intended use/functional language is given limited patentable weight.

**Applicant is invited to request an interview to discuss suggestions to overcome the applied prior art.**

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharick Naqi whose telephone number is 571-272-3041. The examiner can normally be reached on 8:30 am - 5:00 pm.

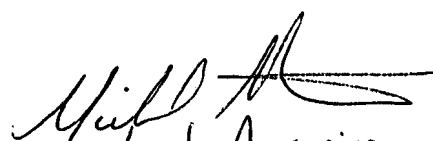
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SN

September 25, 2007

  
Michael Astorino